

STATE OF NEW YORK

7840

IN SENATE

January 12, 2022

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the public health law and the education law, in relation to expenses for potable water testing

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 1110 of the public health law, as amended by a
2 chapter of the laws of 2021 amending the public health law relating to
3 school potable water testing, as proposed in legislative bills numbers
4 S. 2122-A and A. 160-B, is amended to read as follows:

5 § 1110. School potable water testing and standards. 1. In addition to
6 school districts already classified as a public water system under parts
7 141 and 142 of title 40 of the code of federal regulations, as such
8 regulations may, from time to time, be amended, every school district
9 and board of cooperative educational services shall conduct triennial
10 first-drawn tap testing of potable water systems to monitor for lead
11 contamination in each occupied school building under its jurisdiction as
12 required by regulations promulgated pursuant to this section. The test-
13 ing shall be conducted and the results analyzed by an entity or entities
14 approved by the commissioner.

15 2. Where a finding of lead contamination is made, the affected school
16 district shall: (a) continue first-drawn tap water testing pursuant to
17 regulations promulgated pursuant to this section; (b) provide school
18 occupants with an adequate supply of safe, free to the school occupants,
19 potable water for drinking as required by rules and regulations of the
20 department until future tests indicate lead levels pursuant to regu-
21 lations promulgated pursuant to this section; and (c) provide parents or
22 persons in parental relation to a child attending said school with writ-
23 ten notification of test results.

24 3. The commissioner, in consultation with the commissioner of educa-
25 tion, shall promulgate regulations to carry out the provisions of this
26 section. Notwithstanding any other provision of law to the contrary, the
27 regulations promulgated with regard to lead levels shall be consistent
28 with the requirements for those school districts classified as a public

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 water system under parts 141 and 142 of title 40 of the code of federal
2 regulations as such regulations may, from time to time, be amended;
3 provided, however, that the lead action level is exceeded if the concen-
4 tration of lead is greater than 0.005 milligrams per liter.

5 4. The commissioner may grant a waiver from the testing requirements
6 of this section for certain school buildings, provided that the school
7 district has substantially complied with the testing requirements and
8 has been found to be below lead levels as determined by regulations
9 promulgated pursuant to this section, as amended, for such buildings.

10 5. Each school district and board of cooperative educational services
11 conducting testing pursuant to subdivision one of this section and each
12 school district classified as a public water system under parts 141 and
13 142 of title 40 of the code of federal regulations, as such regulations
14 may, from time to time, be amended, shall make a copy of the results of
15 all such testing, including laboratory reports, and any lead remediation
16 plans available to the public on its website and any additional means as
17 chosen by such district. A copy of the results of all testing shall also
18 be immediately transmitted to the department and state education depart-
19 ment in a format to be determined by the commissioner and to the county
20 department of health in the local jurisdiction of the school building.
21 The commissioner of education, in conjunction with the commissioner,
22 shall publish a report triennially based on the findings from the tap
23 water testing conducted according to the provisions of this section.
24 Such report shall be sent to the commissioner, the governor, the tempo-
25 rary president of the senate, and the speaker of the assembly and shall
26 be made available on the department's and state education department's
27 websites.

28 ~~[5-]~~ 6. Expenses for remediation under this section and any regu-
29 lations promulgated thereto shall be fully reimbursable from funds
30 appropriated through the department of environmental conservation for
31 clean water infrastructure projects.

32 § 2. Paragraph b of subdivision 5 of section 1950 of the education
33 law, as amended by chapter 296 of the laws of 2016, is amended to read
34 as follows:

35 b. The cost of services herein referred to shall be the amount allo-
36 cated to each component school district by the board of cooperative
37 educational services to defray expenses of such board, including
38 approved expenses from the testing of potable water systems of occupied
39 school buildings under the board's jurisdiction as required pursuant to
40 section eleven hundred ten of the public health law provided that such
41 expenses for testing of potable water systems are not reimbursable from
42 another state or federal source, except that that part of the salary
43 paid any teacher, supervisor or other employee of the board of cooper-
44 ative educational services which is in excess of thirty thousand dollars
45 shall not be such an approved expense, and except also that administra-
46 tive and clerical expenses shall not exceed ten percent of the total
47 expenses for purposes of this computation. Any gifts, donations or
48 interest earned by the board of cooperative educational services or on
49 behalf of the board of cooperative educational services by the dormitory
50 authority or any other source shall not be deducted in determining the
51 cost of services allocated to each component school district. Any
52 payments made to a component school district by the board of cooperative
53 educational services pursuant to subdivision eleven of section six-p of
54 the general municipal law attributable to an approved cost of service
55 computed pursuant to this subdivision shall be deducted from the cost of
56 services allocated to such component school district. The expense of

1 transportation provided by the board of cooperative educational services
2 pursuant to paragraph q of subdivision four of this section shall be
3 eligible for aid apportioned pursuant to subdivision seven of section
4 thirty-six hundred two of this chapter and no board of cooperative
5 educational services transportation expense shall be an approved cost of
6 services for the computation of aid under this subdivision. Transporta-
7 tion expense pursuant to paragraph q of subdivision four of this section
8 shall be included in the computation of the ten percent limitation on
9 administrative and clerical expenses.

10 § 3. Subparagraph 1 of paragraph b of subdivision 6 of section 3602 of
11 the education law, as amended by section 12 of part C of chapter 57 of
12 the laws of 2004, is amended to read as follows:

13 (1) The apportionment for school building purposes to any district
14 shall be determined by adding the amount of its current year approved
15 expenditures for lease or other annual payments under the provisions of
16 section four hundred three-b, subdivision eight of section twenty-five
17 hundred three, or subdivision six of section twenty-five hundred fifty-
18 four of this chapter, other than payments under a lease-purchase agree-
19 ment or an equivalent agreement, plus the amount of its current year
20 approved expenditures under an assumed amortization for capital outlays
21 for school building purposes from its general fund, capital fund or from
22 a reserve fund to the amount of its current year approved expenditures
23 for debt service for such purposes and multiplying the sum by its aid
24 ratio. Expenditures made for computer equipment, including original
25 purchase and installation of hardware, conduit, wiring, and powering of
26 hardware installations in computer classrooms, or for building or
27 campuswide local area network systems and in-building elements of other
28 wide area networks, including the original purchase and installation of
29 conduit, wiring, and powering of hardware installations, may be included
30 in approved expenditures for building aid pursuant to this paragraph on
31 the approval of the commissioner regardless of any minimum cost require-
32 ment that may be applied to other approved expenditures pursuant to this
33 section. Such equipment expenses claimed for aid under this subdivision
34 shall not be claimed for aid under any other provisions of this chapter.

35 Provided further that any lead remediation expense required pursuant to
36 section eleven hundred ten of the public health law, where such expense
37 is reimbursable from another state or federal source, shall not be an
38 approved expenditure for purposes of this subdivision.

39 § 4. Subdivision 6-h of section 3602 of the education law, as amended
40 by section 52-d of part YYY of chapter 59 of the laws of 2019, is
41 amended to read as follows:

42 6-h. Building aid for testing and filtering of potable water systems
43 for lead contamination. In addition to the apportionments payable to a
44 school district pursuant to subdivision six of this section, the commis-
45 sioner is hereby authorized to apportion to any school district addi-
46 tional building aid pursuant to this subdivision for its approved
47 expenditures, otherwise ineligible for building aid, in the base year
48 for the testing of potable water systems required pursuant to section
49 eleven hundred ten of the public health law ~~[and]~~, provided that such
50 expenses for testing of potable water systems are not reimbursable from
51 another state or federal source. The commissioner is also authorized to
52 apportion to any school district additional building aid pursuant to
53 this subdivision for its approved expenditures, otherwise ineligible for
54 building aid, in the base year for the installation of filters and/or
55 other effective remedial measures for immediate remediation in cases
56 where a finding of lead contamination is made pursuant to such section

1 and verified by confirmatory sampling, provided that the cost of instal-
2 lation of such filters and/or other effective remedial measures shall be
3 deemed an approved expenditure only if (i) such installation and/or
4 other effective remedial measures have been approved or reviewed by a
5 professional with expertise in the field of water quality and remedi-
6 ation and (ii) such cost is incurred prior to July first, two thousand
7 nineteen. Such aid shall equal the product of the building aid ratio
8 defined pursuant to paragraph c of subdivision six of this section and
9 the actual approved expenditures incurred in the base year pursuant to
10 this subdivision. Commencing in the two thousand nineteen--two thousand
11 twenty school year and every year thereafter, additional building aid
12 pursuant to this subdivision shall include approved expenses for testing
13 of potable water systems for lead contamination pursuant to section
14 eleven hundred ten of the public health law, provided that such expenses
15 for testing of potable water systems are not reimbursable from another
16 state or federal source.

17 § 5. This act shall take effect immediately; provided, however that
18 section one of this act shall take effect on the same date and in the
19 same manner as a chapter of the laws of 2021 amending the public health
20 law relating to school potable water testing, as proposed in legislative
21 bills numbers S. 2122-A and A. 160-B, takes effect.